



U.S. Department of Commerce
National Oceanic and Atmospheric Administration



U.S. Environmental Protection Agency

Mr. Jim Rue, Director
Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, Oregon 97301-2540

Mr. Dick Peterson, Director
Department of Environmental Quality
811 SW 6th Ave.
Portland, Oregon 97204-1390

Dear Directors Rue and Peterson:

The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) are writing to inform you that we have found that Oregon has failed to submit a fully approvable coastal nonpoint program under Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). Specifically, NOAA and EPA find that Oregon has failed to satisfy the additional management measures for forestry condition set forth in the *Findings for the Oregon Coastal Nonpoint Program*, transmitted to the State on January 13, 1998. This letter transmits a copy of the final findings document which explains why the Federal agencies have found that Oregon has failed to satisfy this condition.

As you are aware, NOAA and EPA are making this decision regarding Oregon's Coastal Nonpoint Program at this time based on a settlement agreement with the Northwest Environmental Advocates. The Federal agencies worked closely with Oregon to try to meet the remaining conditions on the state's coastal nonpoint program by this deadline. While Oregon has made significant progress addressing many of the conditions placed on its program, NOAA and EPA were not able to find that Oregon has satisfied the condition related to additional management measures for forestry.

This decision was made after carefully consideration of the public comment received on the federal agencies' December 20, 2013, proposed decision as well as the state's March 2014 submission. NOAA and EPA will announce this decision and our response to the public comment received on this proposed decision in the Federal Register. We anticipate the announcement to be published on or about [DATE]. You can also find a copy of this decision document and the response to comments on NOAA's website at <http://coast.noaa.gov/czm/pollutioncontrol/>.

Per CZARA, since NOAA and EPA have found that Oregon has failed to submit a fully approvable coastal nonpoint program, NOAA must withhold 30 percent of the funding the Department of Land Conservation and Development receives under Section 306 of the Coastal Zone Management Act which supports implementation of the state's coastal management program within the. EPA must also withhold 30 percent of the funding it provides the Department of Environmental Quality under Section 319 of the Clean Water Act which supports implementation of the state's nonpoint source program, including TMDLs.

Ex. 5 - Deliberative

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Please note that while NOAA and EPA are only basing this decision on Oregon's failure to satisfy the additional management measures for forestry condition, that does not necessarily mean Oregon has fully met all other CZARA program requirements and that no further action will be needed to address other CZARA management measures. While NOAA and EPA had previously given Oregon "interim" approvals for many of the other CZARA management measures, we noted that these were only preliminary decisions pending public comment. If and when NOAA and EPA believe the state has fully met all its CZARA requirements, the public will be provided an opportunity to comment on the proposed decision to fully approve the state's coastal nonpoint program as well as the rationale for such a decision. Information the public provides during the comment period may cause NOAA and EPA to reassess an earlier "interim" decision or go back to the state for additional clarification.

Based on concerns NOAA and EPA were hearing regarding Oregon's agriculture programs, the federal agencies already solicited public comment on whether the public thought Oregon's agriculture programs enabled the state to meet its CZARA agriculture management measure requirements and protect water quality as part of the December 20, 2013, proposed findings. NOAA and EPA are still reviewing the comments received related to agriculture and assessing what they may mean for Oregon's coastal nonpoint program. NOAA and EPA will provide Oregon with an updated assessment of Oregon's agriculture management measures shortly.

NOAA and EPA recognizes the challenges Oregon faces in developing a fully approvable coastal nonpoint program. We are committed to continuing to work with you and your staff to address the remaining conditions as soon as possible so that full funding to the state can be restored. If you have any questions regarding the enclosed decision, please contact Jeff Payne at 846-740-1207 or Dennis McLerran at 206-553-1234; or have your staff contact Joelle Gore (NOAA) at 301-563-1178, or Christine Psyk (EPA) at 206-553-1906.

Sincerely,

Jeff Payne, Acting Director
Office for Coastal Management
National Oceanic and Atmospheric
Administration

Dennis McLerran, Regional Administrator
Region 10
U.S. Environmental Protection Agency

Enclosure: NOAA/EPA Final Finding for the Oregon Coastal Nonpoint Program

cc: Patty Snow, DLCD
Gene Foster, DEQ
Christine Psyk, EPA R10
Lynda Hall, EPA HQ
Joelle Gore, NOAA